

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

KA CHIU LEUNG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2316

Decision No. CU 214

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by KA CHIU LEUNG in the amount of \$18,531.00, and is based upon the asserted loss of certain improved real and personal property which was nationalized or otherwise taken by the Government of Cuba. A further portion of the claim is based upon ownership of a stock interest. Claimant states that he has been a national of the United States since his naturalization on February 21, 1966.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

- (a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

In his claim form, filed on April 27, 1967 claimant states that he owned a parcel of land located in Marianao, Cuba, with a furnished two-story house located thereon; that he also owned a parcel of unimproved real property located in Santa Amalia, Cuba; and that a loss arose on September 12, 1960 as a result of claimant's being forced to evacuate from Cuba and abandon said real property. A further portion of the claim, based upon ownership of 1,000 shares of Atlantic Del Golf Sugar Company stock, assertedly arose upon the nationalization of said company by the Government of Cuba. No additional evidence has been submitted since the filing of the claim. Claimant further states that he did not acquire United States nationality until February 21, 1966.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimant herein establish that he was the owner of interests in property, subject of his claim, but he must also establish that some measure depriving him of his interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to February 21, 1966, the date he acquired citizenship of the United States. This he has not done.

On the basis of the existing record, the Commission finds that claimant has failed to establish that the property, subject of this claim, was owned by a national of the United States on the date of loss, a requirement of Section 504(a) of the Act.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

AUG 23 1967

CERTIFICATE

This is a true and correct copy of the decision
of the Commission entered as the final
decision on **25 SEP 1967**

Francis Macfarlane
Clerk of the Commission

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)